

STATE OF SOUTH CAROLINA
RECEIVED STATE ETHICS COMMISSION

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STATE ETHICS
COMMISSION

COMPLAINT FORM

FOR COMMISSION USE ONLY:
CASE NUMBER
C 2021-086

COMPLAINANT: State Ethics Commission
ADDRESS: 201 Executive Center Drive
Suite 150
Columbia, SC 29210
TELEPHONE NUMBER: (803) 253-4192

RESPONDENT: Barry W. Winn
ADDRESS: [REDACTED]
TELEPHONE NUMBER: [REDACTED]
TITLE: Candidate – City of Hilton Head Island
Mayor

Section 8-13-1308, S.C. Code Ann., 1976, as amended, requires candidates to file Campaign Disclosures within ten (10) days of receiving or expending \$500; fifteen (15) days prior to each election; within ten (10) days of the end of each quarter; and a final report when the campaign account is closed. In addition, certified campaign reports detailing campaign contributions and expenditures must contain the total of contributions accepted, the name and address of each person making a contribution, the total expenditures made by or on behalf of the candidate or committee, and the name and address of each person to whom an expenditure is made from campaign funds. Pursuant to Section 8-13-1362 and Regulation 52-504 (C), the Pre-Election and quarterly report are required even when there have been no contributions or expenditures.

Records of the State Ethics Commission indicate that the January 10, 2019, April 10, 2019, July 10, 2019, October 10, 2019, January 10, 2020, April 10, 2020, July 10, 2020, October 10, 2020, January 10, 2021, April 10, 2021, and July 10, 2021 Campaign Disclosures have not been filed. Respondent was sent an email reminder thirty days before each Campaign Disclosure deadline.

Respondent was reminded of the filing requirement by a certified letter dated February 1, 2021 as described in the attached. To date, no properly completed January 10, 2019, April 10, 2019, July 10, 2019, October 10, 2019, January 10, 2020, April 10, 2020, July 10, 2020, October 10, 2020, January 10, 2021, April 10, 2021, or July 10, 2021 Campaign Disclosure has been received. All in violation of Section 8-13-1308 (B) and Section 8-13-1308 (F), S.C. Code Ann., 1976, as amended.

All investigations, inquiries, hearings, and accompanying documents must remain confidential unless respondent waives the right to confidentiality. If there is a finding of probable cause, the following documents become public record: the complaint, the response (if any) by respondent, and the notice of hearing. If a hearing is to be held, the final order and all exhibits become public record. If no hearing is held following a finding of probable cause, the final disposition of the matter becomes public record. The willful release of confidential information is a misdemeanor, and any person releasing such confidential information, upon conviction, must be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year. Section 8-13-320(10)(g).

STATE OF SOUTH CAROLINA
COUNTY OF Richland

Personally appeared before me Meghan L. Walker who, first being duly sworn, says that she has read and knows the contents of the above complaint and that the allegations contained therein, are true and correct to the best of her own knowledge, except for those matters therein based upon information and belief, and as to those she believes them to be true.

Sworn to and subscribed before me this
28th day of September, 2021

[REDACTED]
Meghan Walker, Executive Director

Notary Public for South Carolina
My Commission expires 8-11-2025

SEC-7 (Revised 8/2019)

REPLY TO: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210 (803)253-4192
FAXED COPIES WILL NOT BE ACCEPTED

STATE OF SOUTH CAROLINA)	
COUNTY OF RICHLAND)	BEFORE THE STATE ETHICS COMMISSION
)	
IN THE MATTER OF:)	
)	
Complaint C2021-086)	
)	
State Ethics Commission)	NOTICE OF HEARING
Complainant.)	
)	
Barry Ginn)	
Respondent.)	
)	

The State Ethics Commission has determined that there is probable cause pursuant to Section 8-13-320(10)(i), Code of Laws, South Carolina, 1976, as amended, in the above-captioned complaint. The Commission will convene a formal hearing into the matter in accordance with Section 8-13-320(10)(i) & (j), Code of Laws, South Carolina, 1976, as amended, and State Ethics Commission Regulations, S.C. Code Ann. Regs. 52-707 (1997 Cum. Supp.) on Thursday, April 18, 2024 at 9:30 a.m. at the Commission Hearing Room located at: 201 Executive Center Drive, Suite 150, Columbia, South Carolina 29210.

The following allegations will be heard:

COUNT ONE
FAILURE TO FILE AN INITIAL CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(A), S.C. CODE ANN., 1976, AS AMENDED

That Barry Ginn, candidate for Mayor of Hilton Head Island, did in Richland County, fail to file an Initial Campaign Disclosure Report (CDR) within ten days of reaching the \$500.00 threshold, in violation of Section 8-13-1308(A).

COUNT TWO
FAILURE TO DEPOSIT CONTRIBUTIONS INTO A CAMPAIGN BANK ACCOUNT
SECTION 8-13-1312, S.C. CODE ANN., 1976, AS AMENDED

That Barry Ginn, candidate for Mayor of Hilton Head Island, did in Richland County, fail

to deposit five (5) contributions within ten (10) days of receipt, in violation of Section 8-13-1312.

COUNT THREE
ACCEPTING CASH EXCEEDING CONTRIBUTION LIMIT
SECTION 8-13-1314, S.C. CODE ANN., 1976, AS AMENDED

That Barry Ginn, candidate for Mayor of Hilton Head Island, did in Richland County, accept a \$300.00 cash contribution from Re/Max Island Realty, in violation of Section 8-13-1314.

COUNT FOUR
FAILURE TO PROPERLY DISBURSE FUNDS FROM CAMPAIGN BANK ACCOUNT
SECTION 8-13-1370, S.C. CODE ANN., 1976, AS AMENDED

That Barry Ginn, candidate for Mayor of Hilton Head Island, did in Richland County, fail to properly disburse campaign funds to close his campaign bank account, in violation of Section 8-13-1370.

COUNT FIVE
FAILURE TO FILE A CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(B), S.C. CODE ANN., 1976, AS AMENDED

That Barry Ginn, candidate for Mayor of Hilton Head Island, did in Richland County, fail to file a Quarter 4/2018/Final CDR, in violation of Section 8-13-1308(B).

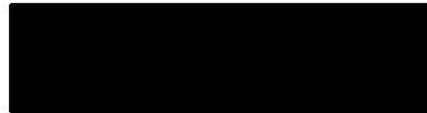
COUNT SIX
FAILURE TO MAINTAIN CAMPAIGN RECORDS
SECTION 8-13-1302(B), S.C. CODE ANN., 1976, AS AMENDED

That Barry Ginn, candidate for Mayor of Hilton Head Island, did in Richland County, fail to maintain campaign records for four (4) years, in violation of Section 8-13-1302(B).

You have the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses. This hearing will be open to the public as required by Section 8-13-320(10)(j), Code of Laws, South Carolina, 1976, as amended. The procedures to be followed are set forth in the Administrative Procedures Act, Section 1-23-10, et seq., Code of Laws, South Carolina, 1976, as amended, the State Ethics

Act, Section 8-13-100, et seq., Code of Laws, South Carolina, 1976, as amended, and State Ethics Commission Regulations, S.C. Code Ann. Regs. 52-707 (1997 Cum. Supp.).

A pre-hearing conference may be scheduled prior to the hearing to allow exchange of witness lists and evidence, marking of exhibits, and disposition of motions or pleadings. In the event you fail to appear, judgment by default will be rendered against you. If there are any questions concerning the above notice or hearing times, please contact the State Ethics Commission.



Meghan Walker Dayson, Executive Director
State Ethics Commission

Dated this 13th day,
of September 2023.

Certificate of Service by Certified Mail

I hereby certify that a copy of this **NOTICE OF HEARING** was duly served on the RESPONDENT Barry Ginn, 138 Pinecrest Circle, Bluffton, SC 29910 by depositing said **NOTICE OF HEARING** in the United States mail, Columbia, South Carolina on this 14th day of September 2023, by CERTIFIED MAIL, E-RETURN RECEIPT REQUESTED, appropriate postage affixed, and a return address clearly indicated on said envelope.



Rachael O'Bryan, Administrative Assistant
State Ethics Commission (803) 253-4192

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 IN THE MATTER OF:)
 COMPLAINT C2021-086)
)
 State Ethics Commission,)
 Complainant,)
)
 Barry Ginn,)
 Respondent.)
 _____)

BEFORE THE STATE ETHICS COMMISSION

CONSENT ORDER

This matter comes before the State Ethics Commission (Commission) by way of a Complaint filed on September 28, 2021. Pursuant to Section 8-13-320(10)(i) of the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act), the Complaint against Barry Ginn (Respondent) was considered by the Commission and probable cause was found to warrant an evidentiary hearing. Prior to the call of the case, Respondent agreed to entry of the following:

STATEMENTS OF FACT

1. Respondent was an unsuccessful candidate for Mayor of Hilton Head Island in a November 6, 2018 election.
2. Respondent received his first campaign contribution via a check from Capital Asset Management Group on August 17, 2018. This contribution was for \$500.00.
3. Respondent did not file an Initial Campaign Disclosure Report (CDR) on or before August 28, 2018.
4. Respondent opened a campaign bank account on September 24, 2018.
5. Respondent filed a 2018 Pre-Election CDR on October 23, 2018 disclosing (among other items) a \$300.00 contribution from Remax Island Realty. Respondent's 2018 Pre-Election CDR reflected a balance of \$2,397.57 in on-hand contributions.
6. Respondent thereafter failed to file any additional CDRs.
7. In a February 1, 2021 certified letter, the Commission notified Respondent of his failure to timely

file CDRs from January 10, 2019 through January 10, 2021.

8. According to the United States Postal Service, the certified letter was delivered to Respondent's address of record on February 3, 2021 at 10:33 a.m.; however, the proof of service does not contain Respondent's signature.
9. Following the filing of the Complaint, Respondent's campaign bank account records were subpoenaed and reviewed.
10. According to Respondent's campaign bank records, the following contributions were received by Respondent but were not deposited into his campaign bank account within ten (10) days of receipt:

Date Received	Contributor	Amount	Deposit Date
August 17, 2018	Capital Asset Management Group	\$500.00	October 1, 2018
August 19, 2018	Jurgensen & Company	\$500.00	October 1, 2018
August 27, 2018	Jay Harrington	\$1,000.00	October 1, 2018
August 28, 2018	Nell Harrington	\$1,000.00	October 1, 2018
September 1, 2018	RH & Rose Mixson	\$1,000.00	October 1, 2018

11. Further review of Respondent's campaign bank account records revealed Respondent closed his campaign bank account on December 4, 2018 by withdrawing \$539.86 via a cashier's check made out to Leslie Moore.
12. The Commission investigation revealed that the October 23, 2018 contribution from Remax Island Realty was given to Respondent in the form of cash.
13. On April 3, 2024, Respondent came into compliance by filing a Final/January 10, 2019 CDR.

CONCLUSIONS OF LAW

Based upon the Statements of Fact, the Commission concludes, as a matter of law:

1. At all times relevant, Respondent was a "candidate" pursuant to Section 8-13-1300(4). Therefore,

the Commission has personal and subject matter jurisdiction.

2. Section 8-13-1308 provides, in relevant part:

(A) Upon the receipt or expenditure of campaign contributions or the making of independent expenditures totaling an accumulated aggregate of five hundred dollars or more, a candidate . . . must file an initial certified campaign report within ten days of these initial receipts or expenditures . . .

(B) Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election until the campaign account undergoes final disbursement . . .

3. Section 8-13-1312 provides, in relevant part:

. . . All contributions received by the candidate or committee, directly or indirectly, must be deposited in the campaign account by the candidate or committee within ten days after receipt. All contributions received by an agent of a candidate or committee within must be forwarded to the candidate or committee not later than five days after receipt . . .

4. Section 8-13-1314(A)(2) provides, in relevant part:

Within an election cycle, a candidate or anyone acting on his behalf shall not solicit or accept, and a person shall not give or offer to give to a candidate or person acting on the candidate's behalf . . . a cash contribution from an individual unless the cash contribution does not exceed twenty-five dollars and is accompanied by a record of the amount of the contribution and the name and address of the contributor;

5. Section 8-13-1370(A) provides, in relevant part:

Contributions received by a candidate that are in excess of expenditures during an election cycle must be used by the candidate upon final disbursement: (1) to defray ordinary and necessary expenses incurred in connection with his duties in his public office; (2) to be contributed to an organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, a political party, or a committee; (3) to be maintained in the campaign account for a subsequent race for the same elective office; (4) to further the candidacy of the individual for a different elective office. However, after December 31, 1992, the funds must be used in a campaign for a different elective office only as provided for in Section 8-13-1352; (5) to be returned pro rata to all contributors; (6) to be contributed to the state's general fund; or (7) to be distributed using a combination of these options.

6. Section 8-13-1510(A) provides:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows: (1) a fine of one hundred dollars

if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and (2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

7. Section 8-13-130 allows the Commission to “levy an enforcement or administrative fee on a person who is in violation” of the Ethics Act.
8. Section 8-13-320(10) allows the Commission to assess a civil penalty up to \$2,000 for each violation of the Ethics Act.

DISCUSSION

The Commission found probable cause to charge Respondent with the following: (1) failing to file an Initial CDR within ten (10) days of spending or receiving an accumulated aggregate of \$500.00, in violation of Section 8-13-1308(A); (2) failing to file a Final/January 10, 2019 CDR following the closure of his campaign bank account on December 4, 2018, in violation of Section 8-13-1308(B); (3) failing to deposit the five (5) campaign contributions outlined in paragraph ten (10) into his campaign bank account within ten (10) days of receipt, in violation of Section 8-13-1312; (4) accepting a cash contribution from ReMax Island Realty in the amount of \$300.00, in violation of Section 8-13-1314; and (5) failing to properly disburse campaign funds when closing the campaign bank account, in violation of Section 8-13-1370.¹

Through this Consent Order, Respondent acknowledges he violated the Ethics Act in these instances. In mitigation, Respondent states 2018 was his first run for public office and that he retained

¹ The Commission also found probable cause to believe Respondent had failed to disclose a number of contributions and expenditures in violation of Section 8-13-1308(F). However, given that Respondent is also charged with failing to file the corresponding CDR and because Respondent is now in compliance, the Commission declines to proceed on these charges. In addition, the Commission found probable cause to believe Respondent violated Section 8-13-1302 by failing to maintain records related to a November 16, 2018 expenditure. However, Commission records reflect Commission staff did not request these records until November 22, 2022. Section 8-13-1302 only requires Respondents to maintain records for four (4) year beyond the date of the expenditure. In this instance, Respondent was only required to retain these records until November 16, 2022. Therefore, the Commission declines to proceed on this charge.

a campaign manager, Leslie Moore, to assist him with his filing duties. Respondent states that shortly after the election, Ms. Moore was in a serious automobile accident that caused her to be in a vegetative state. Respondent states he closed his campaign bank account on December 4, 2018 and that he donated the balance of \$539.86 to Ms. Moore's care. Respondent states he was unaware that his CDRs were not properly filed or that he had any additional filing requirements.

Respondent acknowledges that he did not timely file an Initial CDR and that he did not timely deposit the contributions referenced in paragraph ten (10) into his campaign bank account, but states that he suffered from a serious illness in or around the time he received these contributions, which caused the delay in their deposit. The Commission acknowledges receiving information showing Respondent was hospitalized shortly prior to Labor Day of 2018 and agrees that this hospitalization likely led to his delay in both the filing of his Initial CDR and the timely deposit of the aforementioned contributions. Respondent further states that he does not recall receiving a cash contribution from Remax Island Realty, but acknowledges that his CDRs and campaign bank records reflect such a contribution. Respondent states that he currently suffers from ongoing medical conditions that have required him to undergo numerous surgical procedures in the last year. Respondent states it was not his intent to deceive the public or the Commission. Finally, Respondent states he did not receive any of the Commission's communications, to include its written correspondence, until a Commission Investigator contacted him following the filing of the Complaint. Respondent states that he no longer resides at his address of record, which was his residence in 2018.

DISPOSITION

1. The Commission hereby finds Respondent in violation of the Ethics Act as set forth herein.
2. The Commission hereby adopts the Statements of Fact, Conclusions of Law, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the Commission hereby issues a Public Reprimand and orders the Respondent

to pay the Commission, within one (1) year from receipt of this Order, a late-filing penalty of \$100.00 for Respondent's failure to timely file a Final CDR, a reduced civil penalty of \$100.00 for accepting a cash contribution over \$25.00, and an administrative fee of \$300.00, for a total of \$500.00. In light of Respondent's extenuating circumstances, the Commission declines to assess any additional civil penalties for Respondent's remaining violations.

By executing this Consent Order, Respondent understands that he is not only admitting to violations of the Ethics Act, but also confessing to a judgment of \$500.00 (less any money paid to the Commission) in the event he does not make full and timely payment as provided for in this Order. In that event, the Commission shall file a Judgment against Respondent in the Clerk of Court's Office in the County of Respondent's last known residence. Upon said filing, the Clerk of Court shall enter this Order in the amount of \$500.00 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

AND IT IS SO ORDERED THIS 9th DAY OF June 2024.

STATE ETHICS COMMISSION


SCOTT E. FRICK, CHAIR


BARRY GINN
RESPONDENT